

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

**THIRD SET OF INFORMATION REQUESTS OF
SHREWSBURY'S ELECTRIC LIGHT PLANT
TO FIBER TECHNOLOGIES NETWORKS, LLC**

D.T.E. 01-70

Pursuant to 220 C.M.R. 1.06(b)(c), Shrewsbury's Electric Light Plant ("SELP") submits to Fiber Technologies Networks, LLC ("Fibertech") the following information requests.

INSTRUCTIONS AND DEFINITIONS

The instructions and definitions contained in SELP's First Set of Information Requests shall apply to this Third Set of Information Requests, with the following additions:

In responding to any information request seeking a lease, contract or agreement, Fibertech may redact portions of the lease, contract or agreement that are competitively sensitive. (In setting out this instruction, SELP also wishes to express its willingness to execute a reasonable non-disclosure agreement with respect to production of these documents.)

In addition the word "communication" is defined as the transmittal of information (in the form of facts, ideas, inquiries or otherwise.)

INFORMATION REQUESTS

SELP 3-1 Please refer to page 3, lines 6-9, page 7, lines 7-13, page 9, line 8, page 11, lines 10-12, and page 12, line 1 of Mr. Lundquist's Direct Testimony.

(a) Please provide each instance, transaction and contract where Fibertech provides the electronic equipment (i.e., electric-optic transducers and associated equipment) necessary to activate (light) the dark fiber as part of its services to and agreements with its customers.

(b) If Fibertech does not provide such electronic equipment as described in Information Request SELP 3-1(a), please state so.

SELP 3-2 Please refer to the testimony set forth above in SELP 3-1.

(a) Provide each instance, transaction and contract where Fibertech, itself, actually activates (lights) the dark fiber as part of its services to and agreements with its customers.

- (b) If Fibertech does not so activate (light) the dark fiber, as described in Information Request SELP 3-2(a), please state so.
- SELP 3-3 (a) Referring to the testimony set forth in SELP 3-1, please provide each instance, transaction and contract where Fibertech, itself, is directly transmitting intelligence by television, telephone or electricity as part of its services and agreements with its customers.
- (b) If Fibertech does not so transmit intelligence as described in Information Request SELP 3-3(a), please state so.
- SELP 3-4 (a) Referring to the testimony set forth in SELP 3-1, please provide each instance, transaction and contract where Fibertech is actually carrying any telecommunications signals as part of its services to and agreements with its customers.
- (b) If Fibertech does not so carry telecommunications signals as described in Information Request SELP 3-4(a), please state so.
- SELP 3-5 (a) Referring to Mr. Lundquist's testimony on pages 10 and 12, is SELP an ILEC?
- (b) Please provide the basis of the answer provided in response to SELP 3-5(a).
- SELP 3-6 (a) Referring to Mr. Lundquist's direct testimony on page 22, is SELP a CLEC?
- (b) Please provide the basis of the answer provided in response to SELP 3-6(a).
- SELP 3-7 (a) In reference to Mr. Lundquist's direct testimony on page 16, lines 14-16, pages 17, lines 1-2, please provide copies of the pole attachment statutes and regulations in New York and Connecticut.
- (b) Please provide a comparison of the key elements of the pole attachment statutes in New York and Connecticut and the pole attachment statute in Massachusetts.
- SELP 3-8 (a) Referring to Mr. Lundquist's direct testimony on page 16, please provide the pole attachment agreements that NEESCOM has entered into in Massachusetts.
- (b) Please provide the pole attachment rates that NEESCOM is paying for its pole attachments in Massachusetts.

- SELP 3-9 Please refer to page 4 of Mr. Lundquist's testimony.
- (a) Provide all DTE and FCC documents "recognizing" that dark fiber constitutes a "new communication service."
- (b) With respect to the documents provided in response to SELP 3-9(a), please explain how any of these documents are relevant to a pole attachment dispute under G.L. c. 166, § 25A?
- SELP 3-10 Please refer to pages 8 through 10 of Mr. Lundquist's testimony.
- (a) Provide copies of all DTE and FCC orders that recognize dark fiber as a "telecommunications service" under 47 U.S.C. § 153(46).
- (b) What is the difference between a "communication" (i.e., "wire communications") service and a "telecommunications" service under FCC precedent?
- SELP 3-10 Please refer to page 9 of Mr. Lundquist's testimony.
- (a) Has the FCC determined, post-"1993 Dark Fiber Tariffs Order," that provision of dark fiber service is a "telecommunications service" in its own right under 47 U.S.C. § 153(46)?
- (b) What impact did the Telecommunications Act of 1996 have on the FCC's finding in 1993 that dark fiber constitutes a "wire communication?"
- (c) Did the FCC's "1997 Non-Accounting Safeguards Order" address the FCC's position on whether the provision of dark fiber is a "telecommunications service" under the Telecommunications Act of 1996?
- SELP 3-11 Please refer to page 10 of Mr. Lundquist's testimony. How is the Global NAPS case referred to relevant to a pole attachment dispute under G.L. c. 166, § 25A?
- SELP 3-12 Please refer to page 11 of Mr. Lundquist's testimony.
- (a) Did the FCC in its "1999 UNE Remand Order" find that dark fiber constituted a "telecommunications" service under 47 U.S.C. § 153(46)?
- (b) Does the fact that something is a "UNE" necessarily mean that same thing is also a "telecommunications service" under 47 U.S.C. § 153(46)?

- SELP 3-13 Please refer to page 12 of Mr. Lundquist's testimony.
- (a) If something is "used in the provision of telecommunications" under 47 U.S.C. § 153(29), does that necessarily mean that it is also a "telecommunications service" in its own right under 47 U.S.C. § 153(46)?
- (b) If Mr. Lundquist's answer to SELP 3-13(a) is yes, please provide all documents that support this position.
- SELP 3-14 Please refer to page 20 of Mr. Lundquist's testimony.
- (a) Are the Choice One Master Facilities and other Agreements that Fibertech has with customers privately-negotiated contracts?
- (b) If the answer to SELP 3-14(a) is yes, please describe whether the provision of dark fiber under such arrangements constitutes the offering of dark fiber on a "common carrier" basis.
- SELP 3-15 Referring to Mr. Chiaino's direct testimony at pages 4 and 6, please provide all agreements that Fibertech has with Verizon.
- SELP 3-16 Referring to Mr. Chiaino's direct testimony at page 6, please provide all responses, documents and communications that Fibertech has received from Massachusetts municipal light plants and Massachusetts cities and towns with respect to Fibertech's requests for pole attachments and rights-of-way grants of approval.
- SELP 3-17 Referring to Mr. Chiaino's direct testimony at page 6 please provide all communications within Fibertech concerning Fibertech becoming and being a CLEC.
- SELP 3-18 (a) In reference to Fibertech's response to SELP 1-10, please explain why lighting Fibertech's optic cable would result in additional services not covered by Fibertech's Massachusetts tariffs.
- (b) Please set forth what services are covered by Fibertech's Massachusetts's tariffs, providing the specific tariff sections and pages where such services are covered.
- SELP 3-19 (a) In reference to Fibertech's response to SELP 1-10 does Fibertech have agreements with providers of hardware or software used to activate (light) it dark fiber?
- (b) If the answer to SELP 3-19 (a) is yes, please provide these agreements.

SELP 3-20

(a) Referring to SELP's response to SELP 1-19, is Fibertech providing local exchange voice data service?

(b) If the answer to SELP 3-20 (a) is yes, please provide the agreements with Fibertech's customers where such services are being provided.